



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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libby ou1
1258932 - R8 SDMS

MAR - 8 2011

Ref: EPR-SR

Mayor D.P. Roll
952 East Spruce Street
Libby, MT 59923

Re: Libby Asbestos Superfund Site, OU1

Dear Mayor Roll:

This letter addresses the concerns that have been raised regarding the buildings that were once located at Operable Unit 1 (OU1) of the Libby Asbestos Superfund site. Under order from EPA, W. R. Grace attempted to clean those buildings in 2000. The cleaning was not effective, and EPA required W.R. Grace to demolish the buildings in 2001. At roughly the same time, W.R. Grace excavated asbestos contaminated areas of OU1, including railroad spurs, and hauled the material to the mine site.

There are some on the Libby City Council who have suggested that EPA owes the City up to \$2,000,000 for the buildings. We disagree. First, as required under the Unilateral Administrative Order (UAO) issued in May of 2000, W.R. Grace prepared an appraisal for OU1, including the buildings and rail spurs, which indicated that all of OU1 was then worth about \$120,000. The buildings themselves were worth about \$32,000.

Further, W.R. Grace and the City of Libby worked out an agreement concerning the buildings. That agreement is described in Scott Spencer's letter of March 14, 2003. In exchange for the demolished buildings, W.R. Grace excavated much of OU1, assisted in permanent relocation of all the operations of Millwork West, and provided the City with an eight inch water line to OU1. EPA helped with cleaning and other work on the new location of Millwork West off Highway 2. We stand ready to complete our remedial work at OU1.

In summary, in exchange for five buildings at OU1 worth \$32,000, the City received an eight inch water line, a move for its tenant Millwork West, and soon will have a clean site suitable for a park and other uses. As far as we know, there is no document in which the parties agreed to this outcome. But this is in fact what happened.

What follows is a detailed chronology of the activities at OU1 which is supported by documents on the attached disk.

- 12/1999 EPA takes soil samples at OU1. Final Remedial Investigation Report (RI Report), beginning at page 2-1. Reference 1, attached.
- 4/2000 EPA takes more soil samples at OU1. Final RI Report, beginning at page 2-1. Reference 1, attached.
- 5/23/2000 EPA issues Unilateral Administrative Order (UAO), Docket No. 8-2000-10, to W.R. Grace requiring it to do cleanup work at the Export Plant. Attached to the UAO are an Action Memorandum, also dated May 23, 2000 and a Removal Action Scope of Work (SOW).
- The UAO and the EPA-approved SOW require temporary relocation of the onsite business, Millwork West, the cleaning of the five onsite historic buildings at OU1 and their contents, excavation and disposal of vermiculite and LA-contaminated soil and debris, and restoration of the property. Paragraph 2.16 of the SOW requires W.R. Grace to have an appraisal of OU1 performed. EPA also transmits a notice of liability letter to W.R. Grace. Reference 2, attached.
- 6/6/2000 W.R. Grace transmits Draft Work Plan to EPA. Draft Work Plan, Reference 3, attached.
- 6/28/2000 W.R. Grace submits revised Draft Work Plan to EPA. Reference 4, attached.
- 7/3/2000 Revised draft Removal Action Work Plan is submitted to EPA. Reference 5, attached.
- 7/10/2000 Appraisal of OU1 is prepared. The appraisal shows the property at OU1, including the buildings, is worth approximately \$120,000. The buildings themselves are collectively worth \$32,000. Reference 6, attached.
- 7/28/2000 Final approved OU1 Removal Action Work Plan (RAWP) transmitted to EPA. This provides for: 1) preparation of site property (e.g. power, access roads, etc.); 2) cleaning of contaminated buildings and structures and their contents and temporary relocation of tenants; 3) excavation of contaminated soil, debris and vermiculite within a defined excavation zone; 4) preparation of a disposal location at the mine; 5) transportation and disposal of waste; and 6) restoration of property. The excavation zone includes three railroad spurs on the southwest side of the property. See Reference 7, letter and RAWP at Figure 1-3.
- 8/10/2000 W.R. Grace and Millwork West agree on a temporary relocation of the business. Mel Burnett, Millwork West, later decides not to return to OU1. See relocation agreement of this date, Reference 8, attached.
- 10/2/2000 Lumber yard operation of Millwork West is relocated. This did not include the planer portion of the operation. Excavation of railroad spurs is with EPA

oversight. POLREP of 11/29/2000, Reference 8, attached.

10/7/2000 Letter from Paul Peronard of EPA to W.R. Grace. Issue is possible restoration of buildings. There is much controversy about whether and how the buildings should be restored. Reference 10, attached.

10/19/2000 One of two railroad spurs at OU1 is removed under EPA oversight. Final Report for Removal Activities is submitted by W.R. Grace, paragraph 3.5, page 3-10. Reference 11, attached.

11/11/2000 Second railroad spur at OU1 removed. Final Report, Section 3.5, page 3-10. Reference 11, attached.

12/1/2000 Hand excavation will occur at third rail spur, the spur that is to remain. Weekly progress report for week ending November 30, 2000. Reference 12, attached.

12/7/2000 Letter from Paul Peronard of EPA to W.R. Grace discussing the need for restoration plans for the buildings. Reference 13, attached.

3-8/2001 Soil and building sampling at OU1. This shows that decontamination of OU1 buildings has not been successful. Final RI Report, Reference 1, page 2-5, letter from Paul Peronard, EPA, of July 27, 2001, Reference 14, attached, POLREP of 3-22-04, Reference 15, attached.

4/20/01 Draft plan for restoration of OU1 received by EPA. This plan was never implemented as EPA later learned that cleanup of the buildings had not been effective. Reference 16, attached.

5/10/01 Letter from Matt Cohn of EPA requesting positions from the City of Libby and W.R. Grace concerning the buildings at OU1. Reference 17, attached.

5/22/01 POLREP of this date indicates W.R. Grace has agreed to demolish 4 buildings and negotiations on restoration of 5th building, the planer building, are ongoing. Reference 18, attached.

5/30/2001 Letter from Attorney Scott Spencer to Matt Cohn of EPA requesting that buildings at OU1 be demolished. The letter indicates that the "quality of the buildings was marginal before the original cleanup, and the buildings were less safe after the cleaning." Reference 19, attached.

6/25/01 Letter from W.R. Grace indicating they disagree with finding that buildings at OU1 are contaminated even after cleaning. Reference 20, attached.

7/11/2001 Letter from Attorney Scott Spencer to Paul Peronard of EPA requesting that buildings be demolished even if all issues have not been resolved. Reference 21,

attached.

- 7/20/2001 EPA issues an amendment to the original Action Memorandum on July 20, 2001. This amendment indicates that even though the buildings were cleaned, they still contain asbestos. Because of the poor condition of the buildings, they would be demolished. "Alternative restoration plans" would be developed. Reference 22, attached.
- 7/27/2001 Letter from Paul Peronard to W.R. Grace directing that the five buildings at OU1 be demolished. This is due to the poor condition of the buildings before cleanup, the fact that the condition of the buildings deteriorated as an effect of the cleanup, and W.R. Grace's apparent unwillingness to prepare plans to EPA's satisfaction to restore the buildings. Reference 23, attached.
- 8/6/2001 Letter from attorneys for W.R. Grace to Matt Cohn, Paul Peronard, and Duc Nguyen, all of EPA. The letter indicates that W.R. Grace will comply with the request to demolish the five buildings. Restoration plans will not be completed until after demolition of the buildings. Reference 24, attached.
- 8/13/2001 In a letter to Paul Peronard of EPA, W.R. Grace, indicates it has prepared an amendment to the RAWP providing for demolition. The RAWP amendment is dated 8/15/01. Reference 25, attached letter and amendment.
- 8-10/2001 All buildings at OU1 except the planer building are demolished. Final RI Report, page 2-5. Reference, 1 attached
- 9/20/2001 Paul Peronard replies to W.R. Grace that buildings at OU1 are indeed contaminated after cleaning. Reference 26, attached.
- 5/1/2002 EPA does work at the location of Millwork West. This work is being done as Millwork West has decided not to move back to OU1. Reference 27, attached.
- 10/28/02 POLREP of this date, page 5, indicates that the planer operation of Millwork West is to be moved to a new building, which EPA has cleaned. The old planer building at OU1 will then be demolished. Paragraph 5 also indicates that W.R. Grace and City of Libby have agreed that in exchange for the 5 buildings, W.R. Grace will put an 8 inch water line to the site. This is to be done in the spring of 2003. Reference 28, attached.
- 4/19/03 Spencer letter outlining the agreement between W.R. Grace and the City of Libby. Attached letter of 4/19/03. Reference 29, attached.

We believe that we have all spent more than enough time on this issue. While some on the City Council may continue to believe that EPA should pay \$2,000,000 in compensation for the buildings, we find nothing in the record to support that conclusion. As the appraisal shows,

the buildings were worth only \$32,000 before there had been any attempt to clean them. When we review the appraisal and other documents we have on this issue, we are satisfied that the City of Libby was treated very fairly concerning the buildings. We do not believe that there is anything to be gained from further discussion of this issue. If you have any questions, please feel free to contact me at 303-312-6401 or by email at murray.bill@epa.gov.

Sincerely,



Bill Murray, Program Director
Superfund Remedial Program

Enclosures

Cc: Robin Benson
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